

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 4<sup>th</sup> day of February, two thousand eleven.

PRESENT:

DENNIS JACOBS,  
*Chief Judge,*  
ROBERT D. SACK,  
DEBRA ANN LIVINGSTON,  
*Circuit Judges.*

LUIS MAYANCELA-MINCHALA,  
*Petitioner,*

v.

08-4923-ag  
NAC

ERIC H. HOLDER, JR., U.S. ATTORNEY  
GENERAL,\*  
*Respondent.*

FOR PETITIONER: Glenn T. Terk, Wethersfield,  
Connecticut.

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\* Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Attorney General Eric H. Holder, Jr., is automatically substituted for former Attorney General Michael B. Mukasey as respondent in this case.

1     **FOR RESPONDENT:**                   Tony West, Assistant Attorney  
2   General; Cindy S. Ferrier, Senior  
3   Litigation Counsel; Nairi M.  
4   Simonian, Trial Attorney, Office of  
5   Immigration Litigation, Civil  
6   Division, United States Department  
7   of Justice, Washington, D.C.

1             UPON DUE CONSIDERATION of this petition for review of a  
2     decision of the Board of Immigration Appeals ("BIA"), it is  
3     hereby ORDERED, ADJUDGED, AND DECREED, that the petition for  
4     review is DISMISSED in part and DENIED in part.

5             Petitioner Luis Mayancela-Minchala, a native and  
6     citizen of Ecuador, seeks review of a September 4, 2008,  
7     decision of the BIA affirming the June 25, 2007, decision of  
8     Immigration Judge ("IJ") Charles Adkins-Blanch,  
9     pretermittting his asylum application as untimely and denying  
10    his claims for withholding of removal and relief under the  
11    Convention Against Torture ("CAT"). *In re Luis Mayancela-*  
12    *Minchala*, No. A098 322 731 (B.I.A. Sept. 4, 2008), *aff'g* No.  
13    A098 322 731 (Immig. Ct. Hartford June 25, 2007). We assume  
14    the parties' familiarity with the underlying facts and  
15    procedural history.

16            Under the circumstances of this case, we review both  
17    the IJ's and the BIA's decisions. See *Yun-Zui Guan v.*  
18    *Gonzales*, 432 F.3d 391, 394 (2d Cir. 2005). The applicable

standards of review are well-established. 8 U.S.C. § 1252(b)(4)(B); *Salimatou Bah v. Mukasey*, 529 F.3d 99, 110 (2d Cir. 2008).

#### **I. Asylum**

Because Mayancela-Minchala challenges only the IJ's factual determination that he did not demonstrate extraordinary circumstances excusing the untimely filing of his asylum application, we are without jurisdiction to review the IJ's pretermission of his asylum application. See 8 U.S.C. § 1158(a)(3). We dismiss the petition for review to this extent.

#### **II. Withholding of Removal**

Mayancela-Minchala waives any challenge to the IJ's finding that he did not sufficiently corroborate his claims of past and future persecution based on his imputed political opinion. See *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 541 n.1, 545 n.7 (2d Cir. 2005). That finding alone was dispositive with regard to Mayancela-Minchala's application for withholding of removal. See *Chuilu Liu v. Holder*, 575 F.3d 193, 196-97 (2d Cir. 2009) (holding that "[w]hile consistent, detailed, and credible testimony may be sufficient to carry the alien's burden, evidence

1 corroborating his story, or an explanation for its absence,  
2 may be required where it would reasonably be expected"  
3 (quoting *Diallo v. INS*, 232 F.3d 279, 285 (2d Cir. 2000);  
4 see also *Steevenez v. Gonzales*, 476 F.3d 114, 118 (2d Cir.  
5 2007) (denying petition for review because petitioner failed  
6 to challenge dispositive ground for relief).

7 In any event, the agency's alternative findings for  
8 denying Mayancela-Minchala's application for withholding of  
9 removal were not in error. As the agency found, Mayancela-  
10 Minchala provided no solid direct or circumstantial evidence  
11 that his father's political activities were imputed to him  
12 and provided "one central reason" motivating his alleged  
13 persecutors. See *Yueqing Zhang*, 426 F.3d at 545; see also  
14 *Matter of C-T-L-*, 25 I. & N. Dec. 341, 344-48 (BIA 2010)  
15 (applying the "one central reason" standard to withholding  
16 of removal claims). Moreover, the agency did not err in  
17 finding that Mayancela-Minchala failed to demonstrate a  
18 likelihood of future persecution by satisfying his burden of  
19 establishing that it would not be reasonable for him to  
20 relocate. See 8 C.F.R. § 1208.16(b)(3)(i).

### 21 **III. CAT Relief**

22 Mayancela-Minchala does not challenge the agency's

1 denial of his application for CAT relief and we deem any  
2 such argument waived. See *Yueqing Zhang*, 426 F.3d at 541  
3 n.1, 545 n.7.

4 For the foregoing reasons, the petition for review is  
5 DISMISSED in part and DENIED in part. As we have completed  
6 our review, any stay of removal that the Court previously  
7 granted in this petition is VACATED, and any pending motion  
8 for a stay of removal in this petition is DISMISSED as moot.  
9 Any pending request for oral argument in this petition is  
10 DENIED in accordance with Federal Rule of Appellate  
11 Procedure 34(a)(2), and Second Circuit Local Rule 34.1(b).

12 FOR THE COURT:  
13 Catherine O'Hagan Wolfe, Clerk  
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 Catherine O'Hagan Wolfe